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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/599,090

09/19/2006

Theodore J. Stone

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GRACO MINNESOTA INC
PO BOX 1441
MINNEAPOLIS, MN 55440

EXAMINER

NGO, LIEN M

ART UNIT

PAPER NUMBER

3754

MAIL DATE

DELIVERY MODE

09/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/599,090	Applicant(s) STONE ET AL.	
	Examiner LIEN TM NGO	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/2/08 has been entered.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-3 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The method of claims 1-3 are not patentable subject matter because the steps of the method claims do not produce a useful, tangible and concrete result or product.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings (or the flow chart) must show every feature of the invention specified in the claims. Therefore, the “increasing said dose size when the number of doses falling outside said predetermined tolerance exceeds a predetermined level” and “decreasing said dose size when the number of doses falling outside said predetermined tolerance is within a predetermined

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level" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p) (5) because they include the following reference character(s) not mentioned in the description: The specification does not disclose the detail of the flow charge in fig.1. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the

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application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The amendment filed 6/2/08 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

In tile method of the instant invention shown in Figure 1, the system first dispensing a plurality of closes of plural component material measures the ratio between said components in the plurality of doses and calculates the number of on-ratio doses that are within the predetermined fixed ratio tolerance (4% in the preferred embodiment.) It then determines the number of the doses which fall within a predetermined tolerance level of the desired ratio by asking are more than 98% (in the preferred embodiment) of the doses within that tolerance. When the number of on-ratio doses are more than 98% of the total, the dose size is decreased. This step sequence is shown in the first major branch of the flow chart of Figure 1. Similarly, it determines the number of the doses which fall outside a predetermined tolerance level of the desired ratio by asking are less than 90% (in the preferred embodiment) of the doses within that tolerance. When

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the number of on-ratio doses are less than 90% of the total, the dose size is increased. This step sequence is shown in the second major branch of the flow chart of Figure 1.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-3 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim subject matter of claims 1- 3 are not supported in the Specification and Drawing because the original Specification and Drawing do not support “a method of setting dose size for a plural component sequential metering system for dispensing material having at least first and second components”, “dispensing a plurality of doses of plural component material”, “measuring the ratio between said components in said plurality of doses”, “determined the number of said plurality which fall within a predetermined tolerance of the desired ratio”, “increasing said dose size when the number of doses falling outside said predetermined tolerance exceeds a predetermined level”, as in claim 1.

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And “a method of setting dose size for a plural component sequential metering system for dispensing materials having at least first and second components”, “dispensing a plurality of doses of plural component material”, “measuring the ratio between said components in said plurality of doses”, “determining the number of said plurality which fall within a predetermined tolerance of the desired ratio”, and “decreasing said dose size when the number of closes falling outside said predetermined tolerance is within a predetermined level”; as in claim 3.

Response to Arguments

7. Applicant's arguments filed 7/2/08 have been fully considered but they are not persuasive.

Amendment of specification introduces new matters as pointed out above.

Claim subject matter of claims 1-3 are not supported in the Specification and Drawing because the original Specification and Drawing do not support “a method of setting dose size for a plural component sequential metering system for dispensing material having at least first and second components”, “dispensing a plurality of doses of plural component material”, “measuring the ratio between said components in said plurality of doses”, “determined the number of said plurality which fall within a predetermined tolerance of the desired ratio”, “increasing said dose size when the number of doses falling outside said predetermined tolerance exceeds a predetermined level”, as in claim 1.

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“said metering system has a standby mode and said dose size is changed only when in said standby mode”, as in claim 2.

And “a method of setting dose size for a plural component sequential metering system for dispensing materials having at least first and second components”, “dispensing a plurality of doses of plural component material”, “measuring the ratio between said components in said plurality of doses”, “determining the number of said plurality which fall within a predetermined tolerance of the desired ratio”, and “decreasing said dose size when the number of closes falling outside said predetermined tolerance is within a predetermined level”; as in claim 3.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, KEVIN SHAVER can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LIEN TM NGO/

Primary Examiner, Art Unit 3754

September 8, 2008